

Date of Hearing: July 8, 2019

ASSEMBLY COMMITTEE ON TRANSPORTATION

Jim Frazier, Chair

SB 625 (Hill) – As Amended July 1, 2019

**SENATE VOTE:** 38-0

**SUBJECT:** Party buses: cannabis

**SUMMARY:** Prohibits charter party carriers from permitting passengers to smoke or vape cannabis except under certain conditions. Specifically, **this bill:**

- 1) Prohibits a charter party carrier from permitting passengers to smoke or vape cannabis unless the following conditions are met:
  - a) There are no passengers under the age of 21.
  - b) The driver's compartment is sealed off by a physical barrier that effectively limits the passage of smoke or vapor to the driver's compartment and the driver's compartment and the passenger compartment are separately ventilated.
  - c) If the barrier between the driver's compartment and the passenger compartment has a door, window, partition, or other opening, then that partition remains closed and a second employee remains in the passenger cabin while passengers are present.
  - d) A consumer notice is posted, as specified.
- 2) Requires a charter party carrier to get a certification from a third-party engineer that the driver's cabin is in fact sealed off and has a separate ventilation system.
- 3) Requires the certification to be kept in the vehicle, to be provided to the California Highway Patrol for verification and inspection purposes, and that a copy of the determination must be presented, upon request, to the California Public Utilities Commission (CPUC).
- 4) Creates a civil penalty up to \$2,000, for the first offense, to be assessed against the charter party carrier by the CPUC for allowing individuals to consume cannabis underage, allowing passengers to consume cannabis in a publically visible manner, or for failing to post the consumer notice; a \$2,000 penalty and a suspension of a carrier's certificate to operate for up to 30 days for the second offense; and revocation of the carrier's certificate or permit for the third offense.
- 5) Authorizes the CPUC to revoke a charter party carrier's certificate or permit for the first offense if the carrier permits the consumption of cannabis without a certification that the driver is sealed off from the passenger compartment or if the barrier fails to remain closed for the duration of passengers being present in the vehicle.

**EXISTING LAW:**

- 1) Establishes the “Passenger Charter-Party Carriers Act,” which authorizes the CPUC to supervise and regulate every charter party carrier in the State and to do all things necessary and convenient in the exercise of such power and jurisdiction, including issuing permits or certificates, investigating complaints against carriers, and canceling, revoking, or suspending permits and certificates for specific violations.
- 2) Defines a “charter-party carrier of passengers” to mean every person engaged in the transportation of persons by motor vehicle for compensation, whether in common or contract carriage, over any public highway in this state.
- 3) Defines a “passenger stage corporation” to include every corporation or person engaged as a common carrier, for compensation, in the ownership, control, operation, or management of any passenger stage over any public highway in this state between fixed termini or over a regular route, as specified.
- 4) Defines a “transportation network company” to mean an organization, including, but not limited to, a corporation, Limited Liability Company, partnership, sole proprietor, or any other entity, operating in California that provides prearranged transportation services for compensation using an online-enabled application or platform to connect passengers with drivers using a personal vehicle.
- 5) Defines “bus” to mean a vehicle designed, used, or maintained for carrying more than 10 persons, including the driver, which is used to transport persons for compensation or profit.
- 6) Defines “limousine” to mean any sedan or sport utility vehicle, of either standard or extended length, with a seating capacity of not more than 10 passengers including the driver, used in the transportation of passengers for hire on a prearranged basis within this state, and includes a modified limousine, as specified.
- 7) Prohibits the consumption and possession of open containers of alcoholic beverages and cannabis products while driving or riding as a passenger in a motor vehicle on highways and publicly accessible off-highway roads, unless certain conditions are met.
- 8) Provides an exemption to the open container and consumption of alcoholic beverages and cannabis products prohibition for passengers of any bus, taxicab, or limousine for hire licensed by the CPUC or proper local authority, the living quarters of a housecar or camper, or of a pedicab, as specified.

**FISCAL EFFECT:** Unknown.

**COMMENTS:** In 2016 the California voters approved Proposition 64, which legalized recreational use of cannabis in California, with certain restrictions. While Proposition 64 made it illegal to possess cannabis in a vehicle, it did not make illegal to consume cannabis while driving. SB 65 (Hill), Chapter 232, Statutes of 2018, conformed California’s laws regarding consuming cannabis while driving to the law prohibiting the act of drinking alcohol while driving. However, SB 65 inadvertently made it legal to consume cannabis on a charter party carrier licensed with the CPUC, which according to the author was not his intent.

According to the author, “A loophole in current law makes it legal for passengers to smoke cannabis in a bus, limo, or taxicab. As a result, some party bus and limo operators are offering cannabis dispensary tours similar to existing tours for wineries or breweries. SB 625 makes it illegal for vehicle passengers to smoke or vape cannabis. The bill allows for cannabis smoke in a bus or limousine, but only if strict safety standards and consumer protections are followed. Specifically, SB 625 makes it illegal for a passenger in a party bus or limo to smoke or vape cannabis unless the driver’s compartment is sealed off and separately ventilated. The bill also subjects these vehicles to oversight by the California Public Utilities Commission and California Highway Patrol, similar to other party bus and limo operators, and establishes penalties for noncompliance. SB 625 is necessary to close this dangerous loophole and appropriately regulate these businesses.”

Like wine and beer tours, weed tours can now be chartered for enthusiasts of cannabis. These tours offer a chance to visit dispensaries, glass manufacturing facilities for bongs (a filtration device generally used for smoking cannabis that comes in various sizes, shapes and colors) and cultivation sites. There is even one in Los Angeles that gives you the opportunity to meet Tommy Chong of Cheech and Chong, a Grammy Award winning comedy duo that became successful in the 1970s and 1980s for their stand-up routines, studio recordings, and feature films based on the hippie and free love era, with their material most notably expressing their love for cannabis. Some of these tours would like to continue the practice of having their tourists smoke cannabis while on the tour bus, while recognizing that the driver should have to be sealed off from the passengers for safety reasons.

Studies on cannabis’s effects have been difficult because of the federal government’s classification of the drug as a Schedule I narcotic, which limits the ability for controlled tests. There has been a general concern for what has colloquially become known as a “contact high.” A study published in the Journal of Analytical Toxicology found that at the very least, being in a confined space with others smoking cannabis results in traceable levels of cannabis in an individual’s urine. In that study, they had individuals stay in a 10 by 13 sealed room for an hour while others smoked cannabis. All individuals tested positive for cannabis depending on what type of drug test was used (they also all experienced eye irritation). This was even the case when the room had ventilation.

Another difficulty that arises due to the limitations on testing is the ability to accurately account for cannabis impairment while driving. As noted in a 2017 report to Congress from the National Highway Traffic Safety Administration (NHTSA), while alcohol is readably soluble in water, and hence blood, the active ingredient in cannabis that causes psychoactive affects (Delta-9-Tetrahydrocannabinol, or THC) is fat soluble. This means that once ingested, THC is stored in fatty tissues and can be released back into the blood sometimes long after ingestion. NHTSA noted that some studies have detected THC in the blood at 30 days post ingestion, much longer than the psychoactive effects of cannabis lasts. This is one of the reasons why NHTSA found that it is difficult, though not impossible, to obtain a conviction for drug-impaired driving without evidence of drug use by the suspect.

Finally, there is uncertainty as to the effects of cannabis while driving. A more recent study from the National Institute on Drug Abuse, NHTSA and the Office of National Drug Control Policy used the National Advanced Driving Simulator at the University of Iowa to test the effects of cannabis, alcohol and both cannabis and alcohol. Cannabis was found to cause an increase in the

variability of the driver's lane position. However, only alcohol increased lane departures. Cannabis drivers were found to have reduced mean speeds, increased time driving below the speed limit and increased following distance during a car-following task. Alcohol, however, resulted in greater variability in speed and a greater percent of time driving above the speed limit. In fact, combining the drugs resulted in mitigating some of the effects found with alcohol by reducing the time spent above the speed limit.

This bill still allows individuals to smoke or vape cannabis if they are a passenger in a charter party carrier. In order to ensure that the driver is protected from the cannabis smoke, this bill proposes that a charter party carrier must seal the driver off from the rest of the passengers and that they must be in a cabin that has its own ventilation system. The seal must be effective enough to prevent the passage of smoke or vapor to the driver's compartment, and requires a state licensed engineer to certify that the cabin is indeed sealed.

The bill still allows for the barrier to have a door, window, partition, or other opening, but that partition must remain closed while individuals are smoking and another employee must be present in the back of the vehicle with the passengers. All passengers and the employee are required to be 21, the legal age for smoking cannabis in California.

In addition, this bill requires a consumer notice to be placed in the passenger compartment. This consumer notice alerts passengers of the age requirements for consuming cannabis, the potential harms of consuming cannabis while pregnant or breastfeeding, and the fact that cannabis may cause impairment and effect your ability to drive and operate machinery.

If the charter party carrier allows underage individuals to smoke or vape cannabis in the passenger compartment, fails to display the consumer notice, or allows passengers to consume the cannabis in a visible manner, then the charter party carrier can be subjected to a civil fine by the CPUC. Subsequent violations can lead to suspension or revocation of their permit to operate as a charter party carrier. This punishment is in line with the existing one for permitting underage individuals to consume alcohol in a charter party carrier.

If the charter party carrier allows individuals to smoke cannabis without certifying that the driver is sealed off from the passengers, or they fail to keep the barrier between the passengers and the driver closed while consuming cannabis, then the charter party carrier will have their license revoked. This punishment is in line with the failure to properly modify a limousine.

The California Cannabis Coalition, writing in support of this bill, states that "the purpose of the bill is to ensure that the driver is not impaired if cannabis smoke is consumed in one of these for-hire vehicles. This bill also prohibits anyone under age 21 from being on board if cannabis smoke is present."

*Committee concerns.* While this bill makes an effort to protect the driver from potentially becoming intoxicated as a result of the cannabis smoke in the passenger compartment, it does not go far enough. As written, the bill has two problems: first it only requires the barrier between the passengers and the driver to effectively limit the passage of smoke. This could be read by a third party engineer that the barrier only has to limit, but not prevent, the passage of cannabis smoke to the driver's compartment. Second, the bill allows the barrier to be openable by the passengers. While it provides for an automatic revocation of a charter party carrier license if it is opened, the ability to enforce such a provision may be difficult, as the passengers just have to roll up the window after the vehicle is pulled over. Should this bill pass out of this committee, the author

should consider taking amendments to require a certification from a third party engineer that the barrier and ventilation system prevents, not limits, the ability for cannabis smoke to enter the driver's cabin. Further, the barrier should be permanent, and not be able to be opened.

The bill as drafted does not include cannabis products that are consumed in ways other than smoking or vaping it. Should this bill pass out of this committee, the author may want to consider amending the bill to prohibit the use of cannabis on a charter party carrier if individuals under the age of 21 are present, regardless of how it is consumed (in line with the State's current prohibition for alcohol in charter party carriers).

Finally, the author should consider removing the requirement that a second employee be present in the back of the vehicle, and instead require either a video or audio way of communicating with the driver. Otherwise the state is essentially requiring an employee to become intoxicated as the passengers smoke cannabis in the back.

*Double referral:* This bill was double referred to Communications and Conveyance Committee and passed out of that committee on a 7-3 vote.

*Previous Legislation:* SB 65 (Hill) Chapter 232, Statutes of 2017, prohibited the smoking or ingestion of cannabis while driving, or while riding as a passenger in a motor vehicle, and makes a violation punishable as an infraction.

SB 611 (Hill) Chapter 860, Statutes of 2014, required all modified limousines, as defined, to be equipped with two fire extinguishers and required CHP to develop and implement an inspection program for modified limousines, as specified.

SB 109 (Corbett) Chapter 752, Statutes of 2013, required limousines operating within the state to be equipped with emergency exits no later than January 1, 2016.

AB 45 (Hill) Chapter 461, Statutes of 2012, expanded the provisions concerning under-age drinking to apply to drivers of CPCs, with certain exemptions.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

California Association of Highway Patrolmen  
California Cannabis Coalition  
California Cannabis Industry Association  
California Narcotic Officers' Association  
Loopr LLC  
West Coast Cannabis Tours

### **Oppose**

California Police Chiefs Association (Prior version)  
International Faith Based Coalition (Prior version)

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